

1 AMENDMENT TO SENATE BILL 411

2 AMENDMENT NO. _____. Amend Senate Bill 411 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Liquor Control Act of 1934 is amended by
5 changing Section 3-12 as follows:

6 (235 ILCS 5/3-12) (from Ch. 43, par. 108)

7 Sec. 3-12. Powers and duties of State Commission.

8 (a) The State commission shall have the following
9 powers, functions and duties:

10 (1) To receive applications and to issue licenses
11 to manufacturers, foreign importers, importing
12 distributors, distributors, non-resident dealers, on
13 premise consumption retailers, off premise sale
14 retailers, special event retailer licensees, special use
15 permit licenses, auction liquor licenses, brew pubs,
16 caterer retailers, non-beverage users, railroads,
17 including owners and lessees of sleeping, dining and cafe
18 cars, airplanes, boats, brokers, and wine maker's
19 premises licensees in accordance with the provisions of
20 this Act, and to suspend or revoke such licenses upon the
21 State commission's determination, upon notice after
22 hearing, that a licensee has violated any provision of

1 this Act or any rule or regulation issued pursuant
2 thereto and in effect for 30 days prior to such
3 violation.

4 In lieu of suspending or revoking a license, the
5 commission may impose a fine, upon the State commission's
6 determination and notice after hearing, that a licensee
7 has violated any provision of this Act or any rule or
8 regulation issued pursuant thereto and in effect for 30
9 days prior to such violation. The fine imposed under
10 this paragraph may not exceed \$500 for each violation.
11 Each day that the activity, which gave rise to the
12 original fine, continues is a separate violation. The
13 maximum fine that may be levied against any licensee, for
14 the period of the license, shall not exceed \$20,000. The
15 maximum penalty that may be imposed on a licensee for
16 selling a bottle of alcoholic liquor with a foreign
17 object in it or serving from a bottle of alcoholic liquor
18 with a foreign object in it shall be the destruction of
19 that bottle of alcoholic liquor for the first 10 bottles
20 so sold or served from by the licensee. For the eleventh
21 bottle of alcoholic liquor and for each third bottle
22 thereafter sold or served from by the licensee with a
23 foreign object in it, the maximum penalty that may be
24 imposed on the licensee is the destruction of the bottle
25 of alcoholic liquor and a fine of up to \$50.

26 The State Commission may not revoke or suspend a
27 licensee's license or impose a fine upon a licensee under
28 this paragraph (1) for a violation if the applicable
29 local liquor control commission has revoked or suspended
30 the licensee's license or imposed a fine upon the
31 licensee for the same violation.

32 (2) To adopt such rules and regulations consistent
33 with the provisions of this Act which shall be necessary
34 to carry on its functions and duties to the end that the

1 health, safety and welfare of the People of the State of
2 Illinois shall be protected and temperance in the
3 consumption of alcoholic liquors shall be fostered and
4 promoted and to distribute copies of such rules and
5 regulations to all licensees affected thereby.

6 (3) To call upon other administrative departments
7 of the State, county and municipal governments, county
8 and city police departments and upon prosecuting officers
9 for such information and assistance as it deems necessary
10 in the performance of its duties.

11 (4) To recommend to local commissioners rules and
12 regulations, not inconsistent with the law, for the
13 distribution and sale of alcoholic liquors throughout the
14 State.

15 (5) To inspect, or cause to be inspected, any
16 premises in this State where alcoholic liquors are
17 manufactured, distributed, warehoused, or sold.

18 (5.1) Upon receipt of a complaint or upon having
19 knowledge that any person is engaged in business as a
20 manufacturer, importing distributor, distributor, or
21 retailer without a license or valid license, to notify
22 the local liquor authority, file a complaint with the
23 State's Attorney's Office of the county where the
24 incident occurred, or initiate an investigation with the
25 appropriate law enforcement officials.

26 (5.2) To issue a cease and desist notice to persons
27 shipping alcoholic liquor into this State from a point
28 outside of this State if the shipment is in violation of
29 this Act.

30 (5.3) To receive complaints from licensees, local
31 officials, law enforcement agencies, organizations, and
32 persons stating that any licensee has been or is
33 violating any provision of this Act or the rules and
34 regulations issued pursuant to this Act. Such complaints

1 shall be in writing, signed and sworn to by the person
2 making the complaint, and shall state with specificity
3 the facts in relation to the alleged violation. If the
4 Commission has reasonable grounds to believe that the
5 complaint substantially alleges a violation of this Act
6 or rules and regulations adopted pursuant to this Act, it
7 shall conduct an investigation. If, after conducting an
8 investigation, the Commission is satisfied that the
9 alleged violation did occur, it shall proceed with
10 disciplinary action against the licensee as provided in
11 this Act.

12 (6) To hear and determine appeals from orders of a
13 local commission in accordance with the provisions of
14 this Act, as hereinafter set forth. Hearings under this
15 subsection shall be held in Springfield or Chicago, at
16 whichever location is the more convenient for the
17 majority of persons who are parties to the hearing.

18 (7) The commission shall establish uniform systems
19 of accounts to be kept by all retail licensees having
20 more than 4 employees, and for this purpose the
21 commission may classify all retail licensees having more
22 than 4 employees and establish a uniform system of
23 accounts for each class and prescribe the manner in which
24 such accounts shall be kept. The commission may also
25 prescribe the forms of accounts to be kept by all retail
26 licensees having more than 4 employees, including but not
27 limited to accounts of earnings and expenses and any
28 distribution, payment, or other distribution of earnings
29 or assets, and any other forms, records and memoranda
30 which in the judgment of the commission may be necessary
31 or appropriate to carry out any of the provisions of this
32 Act, including but not limited to such forms, records and
33 memoranda as will readily and accurately disclose at all
34 times the beneficial ownership of such retail licensed

1 business. The accounts, forms, records and memoranda
2 shall be available at all reasonable times for inspection
3 by authorized representatives of the State commission or
4 by any local liquor control commissioner or his or her
5 authorized representative. The commission, may, from time
6 to time, alter, amend or repeal, in whole or in part, any
7 uniform system of accounts, or the form and manner of
8 keeping accounts.

9 (8) In the conduct of any hearing authorized to be
10 held by the commission, to appoint, at the commission's
11 discretion, hearing officers to conduct hearings
12 involving complex issues or issues that will require a
13 protracted period of time to resolve, to examine, or
14 cause to be examined, under oath, any licensee, and to
15 examine or cause to be examined the books and records of
16 such licensee; to hear testimony and take proof material
17 for its information in the discharge of its duties
18 hereunder; to administer or cause to be administered
19 oaths; for any such purpose to issue subpoena or
20 subpoenas to require the attendance of witnesses and the
21 production of books, which shall be effective in any part
22 of this State, and to adopt rules to implement its powers
23 under this paragraph (8).

24 Any Circuit Court may by order duly entered, require
25 the attendance of witnesses and the production of
26 relevant books subpoenaed by the State commission and the
27 court may compel obedience to its order by proceedings
28 for contempt.

29 (9) To investigate the administration of laws in
30 relation to alcoholic liquors in this and other states
31 and any foreign countries, and to recommend from time to
32 time to the Governor and through him or her to the
33 legislature of this State, such amendments to this Act,
34 if any, as it may think desirable and as will serve to

1 further the general broad purposes contained in Section
2 1-2 hereof.

3 (10) To adopt such rules and regulations consistent
4 with the provisions of this Act which shall be necessary
5 for the control, sale or disposition of alcoholic liquor
6 damaged as a result of an accident, wreck, flood, fire or
7 other similar occurrence.

8 (11) To develop industry educational programs
9 related to responsible serving and selling, particularly
10 in the areas of overserving consumers and illegal
11 underage purchasing and consumption of alcoholic
12 beverages.

13 (11.1) To license persons providing education and
14 training to alcohol beverage sellers and servers under
15 the Beverage Alcohol Sellers and Servers Education and
16 Training (BASSET) programs and to develop and administer
17 a public awareness program in Illinois to reduce or
18 eliminate the illegal purchase and consumption of
19 alcoholic beverage products by persons under the age of
20 21. Application for a license shall be made on forms
21 provided by the State Commission.

22 (12) To develop and maintain a repository of
23 license and regulatory information.

24 (13) On or before January 15, 1994, the Commission
25 shall issue a written report to the Governor and General
26 Assembly that is to be based on a comprehensive study of
27 the impact on and implications for the State of Illinois
28 of Section 1926 of the Federal ADAMHA Reorganization Act
29 of 1992 (Public Law 102-321). This study shall address
30 the extent to which Illinois currently complies with the
31 provisions of P.L. 102-321 and the rules promulgated
32 pursuant thereto.

33 As part of its report, the Commission shall provide
34 the following essential information:

1 (i) the number of retail distributors of
2 tobacco products, by type and geographic area, in
3 the State;

4 (ii) the number of reported citations and
5 successful convictions, categorized by type and
6 location of retail distributor, for violation of the
7 Sale of Tobacco to Minors Act and the Smokeless
8 Tobacco Limitation Act;

9 (iii) the extent and nature of organized
10 educational and governmental activities that are
11 intended to promote, encourage or otherwise secure
12 compliance with any Illinois laws that prohibit the
13 sale or distribution of tobacco products to minors;
14 and

15 (iv) the level of access and availability of
16 tobacco products to individuals under the age of 18.

17 To obtain the data necessary to comply with the
18 provisions of P.L. 102-321 and the requirements of this
19 report, the Commission shall conduct random, unannounced
20 inspections of a geographically and scientifically
21 representative sample of the State's retail tobacco
22 distributors.

23 The Commission shall consult with the Department of
24 Public Health, the Department of Human Services, the Illinois
25 State Police and any other executive branch agency, and
26 private organizations that may have information relevant to
27 this report.

28 The Commission may contract with the Food and Drug
29 Administration of the U.S. Department of Health and Human
30 Services to conduct unannounced investigations of Illinois
31 tobacco vendors to determine compliance with federal laws
32 relating to the illegal sale of cigarettes and smokeless
33 tobacco products to persons under the age of 18.

34 (b) On or before April 30, 1999, the Commission shall

1 present a written report to the Governor and the General
2 Assembly that shall be based on a study of the impact of this
3 amendatory Act of 1998 on the business of soliciting,
4 selling, and shipping alcoholic liquor from outside of this
5 State directly to residents of this State.

6 As part of its report, the Commission shall provide the
7 following information:

8 (i) the amount of State excise and sales tax
9 revenues generated as a result of this amendatory Act of
10 1998;

11 (ii) the amount of licensing fees received as a
12 result of this amendatory Act of 1998;

13 (iii) the number of reported violations, the number
14 of cease and desist notices issued by the Commission, the
15 number of notices of violations issued to the Department
16 of Revenue, and the number of notices and complaints of
17 violations to law enforcement officials.

18 (Source: P.A. 91-553, eff. 8-14-99; 91-922, eff. 7-7-00;
19 92-378, eff. 8-16-01; 92-813, eff. 8-21-02.)".